

**Statement of
The Honorable James L. Oberstar
Subcommittee on Railroads, Pipelines, and Hazardous Materials
Hearing on
“The Historical Preservation of Railroads Property and Facilities”
June 5, 2008**

This hearing will examine contentions that the Federal historic preservation process has led to costly delays in infrastructure improvements for railroads, with little or no benefit to historic preservation. The complaints arise from rail development in Alaska and North Carolina, and the suggested remedy appears to be to limit Federal historical protection to specific facilities such as terminals or bridges, and to not protect entire railroad lines or corridors.

Railroads are certainly deserving of historical protection, since they have been at the center of our development as a transcontinental nation and a major industrial power. One of the most vivid and dramatic images of 19th Century history is the laying of the “golden spike” which linked the Central Pacific and Union Pacific rail lines, and connected the United States from coast to coast. Many of our individual rail lines traversing mountainous terrain are marvels of engineering. Rail stations throughout the land are models of outstanding architectural design. Indeed it was the destruction of Pennsylvania Station in New York which was a major factor leading to enactment of the National Historic Preservation Act of 1966.

At the outset, it is important to understand how the Federal historic preservation process works. The Federal laws do not absolutely prohibit Federal actions which permit the impairment of historic properties. Rather, the Federal laws require that before this impairment occurs there must be consideration of actions to mitigate or avoid the impairment, and consideration of alternatives which produce a similar benefit without destroying historic properties.

Railroads are extensively covered by historic preservation laws. More than 2,300 rail facilities are listed in the National Register and subject to these procedures. Many additional rail properties are covered because when there is a proposed Federal action, there will be historical protection for sites which meet the criteria for listing in the Register, even if the sites are not listed.

The rail properties covered in the Register include bridges, tunnels and viaducts. There are 19 corridors or railroads currently listed. Corridors may be listed for their historical significance as links between cities, or for excellence in construction, or for scenic value. As the witness of Rails to Trails will discuss, historic protection for rail corridors has been a major factor in the development of rails-to-trails for bicycles and hikers, which is an important source of recreational tourism in many states.

We have not heard of extensive dissatisfaction with the current system of historical protection for railroads, but we need to give serious consideration to the problems raised by the two states that are appearing today.

The testimony we will hear from the Advisory Council and the National Trust point out that there are administrative remedies to deal with the problems raised by the two states,

which is that historical preservation may be required for individual facilities which are not historically significant, but part of a corridor that is. This hearing has called the attention of the Advisory Council to the problems raised by Alaska and North Carolina. The testimony of the Council and others indicates a willingness to help find administrative remedies for Alaska and North Carolina. An administrative solution may be the best approach. I question the wisdom of making major legislative changes to a program that appears to be working in almost all states.

I would also point out that although the proponents of change claim they are only asking that we do for rail what we did for highways, they seem to want a much broader exemption. For highways, the only exemption was for the entire Interstate System. For railroads, the parallel would seem to be an exemption for the entire national rail system. Alaska and North Carolina want a much broader exemption for any individual railroad or corridor.

Moreover, the Interstate exemption does not exclude protection of corridors. Under the Interstate exemption, a process was established to allow designation of "elements" of the system. The elements which have been designated include extensive highway segments such as 150 miles of the Pennsylvania Turnpike and 60 miles of the Columbia Oregon River highway. By contrast, the proponents of change for rail do not want to allow designation of entire corridors.

In conclusion, I am hopeful that the problems of Alaska and North Carolina can be addressed administratively. I look forward to the testimony of the distinguished group of witnesses.